



FISCAL MEMORANDUM

HB 2135 - SB 2615

March 18, 2022

SUMMARY OF BILL AS AMENDED (016018): Requires, as a condition for bail, a magistrate to order a defendant to carry or wear a global positioning monitoring system (GPS) device in cases in which the defendant was arrested for a crime against a person in which the victim was a domestic abuse victim, or for a violation of an order of protection related to domestic abuse.

Requires the defendant, if able, to pay the costs associated with operating the GPS system.

FISCAL IMPACT OF BILL AS AMENDED:

Increase Local Expenditures - \$305,600/FY22-23 and Subsequent Years*

Other Fiscal Impact – The state is only required to match local government commitments to the Electronic Monitoring Indigency Fund if funds are available. It is unknown if such necessary funds will be budgeted in the future. If so, there will be an increase in state expenditures up to \$152,800 in FY22-23 and subsequent years. This would in turn result in a decrease in local government expenditures up to \$152,800 in FY22-23 and subsequent years.

Assumptions for the bill as amended:

- The proposed legislation requires the defendant, if able, to pay the costs associated with operating the GPS system pursuant to Tenn. Code Ann. § 40-11-152.
- Pursuant to Tenn. Code Ann. § 40-11-152(h), if the magistrate determines that the defendant is indigent, the magistrate must order the defendant to pay any portion of the costs associated with the GPS system for which the defendant has the ability to pay, as determined by the magistrate. Any portion of the costs that the defendant is unable to pay shall come from the Electronic Monitoring Indigency Fund (EMIF) established pursuant to Tenn. Code Ann. § 55-10-419, subject to the availability of funds.
- Based on the Tennessee Bureau of Investigation's (TBI) annual reports on domestic violence, between the years 2019-2020, an average of 33,672 cases of domestic violence resulted in arrest.
- It is estimated that approximately 75 percent of those arrests will be released on bail and ordered to wear a GPS device, and that 20 percent of those offenders, or 5,051 (33,672 x 75% x 20%), will be determined to be indigent and will require funding assistance.

- The average cost of a GPS monitor is \$2.75 per day.
- Pursuant to the Tennessee Criminal Court Proceedings, Rule 5(c)(2), unless the defendant expressly waives the right to a preliminary hearing, when the defendant pleads not guilty the magistrate shall schedule a preliminary hearing to be held within 14 days if the defendant remains in custody and within 30 days if released.
- For the purposes of this analysis, it is estimated a released defendant will be monitored for an average of 22 days.
- The recurring mandatory increase in local expenditures is estimated to be \$305,586 [5,051 offenders x (22 days x \$2.75)] in FY22-23 and subsequent years.
- The EMIF is now available to pay 50 percent of the cost of pretrial GPS monitoring for indigent domestic violence defendants, following the enactment of Public Chapter 505 (2019), with the other 50 percent covered by local governments.
- The EMIF currently prioritizes funding for ignition interlock devices in DUI cases, with the cost of other types of alcohol and GPS monitoring covered only with money remaining.
- As the state is only required to match local government commitments if funds are available and if a local government has already committed funds, it is unknown if such necessary funds will be budgeted in the future. If so, there will be an increase in state expenditures up to \$152,793 (\$305,586 x 50%) in FY22-23 and subsequent years. This would in turn result in a decrease in local government expenditures up to \$152,793 (\$305,586 x 50%) in FY22-23 and subsequent years.

*Article II, Section 24 of the Tennessee Constitution provides that: *no law of general application shall impose increased requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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